

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 6TH JUNE 2006 / 16TH JYAISHTA, 1928

MFA.No. 1078 of 1998()

OPMV.410/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ATTINGAL

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APPELLANT:

THE MANAGER, THE ORIENTAL INSURANCE CO. LTD.,
THIRUVANANTHAPURAM NOW REPRESENTED BY ITS
ADMINISTRATIVE OFFICER, MOTOR THIRD PARTY CLAIMS CELL,
M.G.ROAD, KOCHI-682 035.

BY ADV. SRI.MATHEWS JACOB

RESPONDENTS:

1. V.JANARDHANAN PILLAI, KUNNUMPURATHU VEEDU,
ETHUKKAD JUNCTION, NAVAIKULAM.
2. M.ABDUL RAHIM, MUTTAMPARAMBATHU THEKKEVILA VEEDU,
CHERUVAKKAL, SREEKARIYAM, THIRUVANANTHAPURAM DIST.
3. BABU, S/O.GANGADHARAN, SUGANDHY VILASOM, NAGAROOR.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 06/06/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP. NO.5213 OF 1998 IN MFA.1078 OF 1998:

DISMISSED.

6.6.2006

Sd/-
K.HEMA, JUDGE.

/TRUE COPY/

PA TO JUDGE

K.HEMA, J.

M.F.A.NO. 1078 OF 1998

Dated this the 6th day of June, 2006

JUDGMENT

Appellant is an Insurance Company. An award is passed by the Motor Accidents Claims Tribunal against the appellant directing the appellant to deposit compensation of Rs.23,500/- with interest which was ordered in favour of the first respondent-claimant. The appellant was directed to pay the amount within one month, and on satisfying the award in favour of the first respondent-claimant, Insurance Company was allowed to recover that amount from the owner and driver of the vehicle who are impleaded as respondents 2 and 3 in this appeal.

2. Appellant challenges this award WHICH directs the Insurance Company to deposit the amount. According to learned counsel appearing for the appellant, the Insurance Company has no liability to pay any amount, since the conditions of policy are violated by the insured. The Tribunal found that there is no valid license for the driver who is the second respondent herein, at the time of accident and hence it is contended

that no liability should have been fastened on the Insurance Company to pay the amount.

3. However, at the time of argument, learned counsel appearing for the appellant fairly conceded that in the light of the decision reported in **National Insurance Company v. Swaran Singh** (2004(1) KLT 781), the appellant can no more take up this ground. On going through the dictum laid down in the decision cited above, it is clear that the Tribunal can direct the Insurance Company to deposit the amount and the ground raised in the appeal is not sustainable. Notwithstanding the fact that the Insurance Company has no liability to pay the award amount, on satisfying the award, the Insurance Company can realise the same from the owner and driver, who are made liable to pay the compensation. No other ground is raised in this appeal.

Hence this appeal fails and is dismissed.

K.HEMA, JUDGE

vgs.

K.HEMA, J.

M.F.A.NO.1078 OF 1998

JUDGMENT

9.6.2006